

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/26/07

Date

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 530 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jane Nelson
Sen. Nelson, Chair

Jane
Sen. Janek

Shapiro
Sen. Shapiro

Watson
Sen. Watson

Van de Putte
On the part of the Senate
Sen. Van de Putte.

Eric
Rep. Eissler, Chair

Delisi
Rep. Delisi

Hochberg
Rep. Hochberg

Patrick
Rep. Patrick

Bill Zedler
On the part of the House
Rep. Zedler.

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 530

A BILL TO BE ENTITLED

AN ACT

relating to physical activity requirements and physical fitness
assessment for certain public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 28.002(1) and (1-1), Education Code, are
amended to read as follows:

(1) A school district shall ~~[The State Board of Education,~~
~~after consulting with educators, parents, and medical~~
~~professionals, by rule may]~~ require a student enrolled in
kindergarten or a grade level below grade six ~~[nine]~~ to participate
in moderate or vigorous daily physical activity for at least 30
minutes throughout the school year as part of the ~~[a school]~~
district's physical education curriculum or through structured
activity during a school campus's daily recess~~[, except that the~~
~~board may not require more than 30 minutes of daily physical~~
~~activity]~~. A school district shall require students enrolled in
grade levels six, seven, and eight to participate in moderate or
vigorous daily physical activity for at least 30 minutes for at
least four semesters during those grade levels as part of the
district's physical education curriculum. If a school district
determines, for any particular grade level below grade six, that

1 requiring moderate or vigorous daily physical activity is
2 impractical due to scheduling concerns or other factors, the
3 district may as an alternative require a student in that grade
4 level to participate in moderate or vigorous physical activity for
5 at least 135 minutes during each school week [~~the board adopts~~
6 ~~rules under this subsection, the board must ensure by rule that~~
7 ~~students enrolled in middle and junior high school settings are~~
8 ~~allowed to meet the physical activity requirement by participating~~
9 ~~in physical activity twice each week throughout the school year or~~
10 ~~the option to schedule at least two semesters overall~~].
11 Additionally, a school district may as an alternative require a
12 student enrolled in a grade level for which the district uses block
13 scheduling to participate in moderate or vigorous physical activity
14 for at least 225 minutes during each period of two school weeks. A
15 school district [~~If the board adopts rules under this subsection,~~
16 ~~the board~~] must provide for an exemption for:

17 (1) any student who is unable to participate in the
18 required [~~daily~~] physical activity because of illness or
19 disability; and

20 (2) a middle school or junior high school student who
21 participates in an extracurricular activity with a moderate or
22 vigorous physical activity component that is considered a
23 structured activity under rules adopted by the commissioner [~~State~~
24 ~~Board of Education~~].

25 (1-1) In adopting rules relating to an activity described by

1 Subsection (1)(2), the commissioner [~~State Board of Education~~] may
2 permit an exemption for a student who participates in a school-
3 related activity or an activity sponsored by a private league or
4 club only if the student provides proof of participation in the
5 activity.

6 SECTION 2. Section 28.004, Education Code, is amended by
7 amending Subsection (k) and adding Subsection (l) to read as
8 follows:

9 (k) A school district shall publish in the student handbook
10 and post on the district's Internet website, if the district has an
11 Internet website:

12 (1) a statement of the policies adopted to ensure that
13 elementary school, middle school, and junior high school students
14 engage in at least the amount and level [~~30 minutes per school day~~
15 ~~or 135 minutes per school week~~] of physical activity required by
16 Section 28.002(1); [~~and~~]

17 (2) a statement of:

18 (A) the number of times during the preceding year
19 the district's school health advisory council has met;

20 (B) whether the district has adopted and enforces
21 policies to ensure that district campuses comply with agency
22 vending machine and food service guidelines for restricting student
23 access to vending machines; and

24 (C) whether the district has adopted and enforces
25 policies and procedures that prescribe penalties for the use of

1 tobacco products by students and others on school campuses or at
2 school-sponsored or school-related activities; and

3 (3) a statement providing notice to parents that they
4 can request in writing their child's physical fitness assessment
5 results at the end of the school year.

6 (1) The local school health advisory council shall consider
7 and make policy recommendations to the district concerning the
8 importance of daily recess for elementary school students. The
9 council must consider research regarding unstructured and
10 undirected play, academic and social development, and the health
11 benefits of daily recess in making the recommendations. The
12 council shall ensure that local community values are reflected in
13 any policy recommendation made to the district under this
14 subsection.

15 SECTION 3. Chapter 38, Education Code, is amended by adding
16 Subchapter C to read as follows:

17 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

18 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided by
19 Subsection (b), a school district annually shall assess the
20 physical fitness of students enrolled in grades 3 through 12.

21 (b) A school district is not required to assess a student for
22 whom, as a result of disability or other condition identified by
23 commissioner rule, the assessment instrument adopted under Section
24 38.102 is inappropriate.

25 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The

1 commissioner by rule shall adopt an assessment instrument to be
2 used by a school district in assessing student physical fitness
3 under this subchapter.

4 (b) The assessment instrument must:

5 (1) be based on factors related to student health,
6 including the following factors that have been identified as
7 essential to overall health and function:

8 (A) aerobic capacity;

9 (B) body composition; and

10 (C) muscular strength, endurance, and flexibility;

11 and

12 (2) include criterion-referenced standards specific to a
13 student's age and gender and based on the physical fitness level
14 required for good health.

15 Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school
16 district shall compile the results of the physical fitness
17 assessment required by this subchapter and provide summary results,
18 aggregated by grade level and any other appropriate category
19 identified by commissioner rule, to the agency. The summary
20 results may not contain the names of individual students or
21 teachers.

22 (b) The results of individual student performance on the
23 physical fitness assessment instrument are confidential and may be
24 released only in accordance with state and federal law.

25 Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall

1 analyze the results received by the agency under this subchapter
2 and identify, for each school district, any correlation between the
3 results and the following:

4 (1) student academic achievement levels;

5 (2) student attendance levels;

6 (3) student obesity;

7 (4) student disciplinary problems; and

8 (5) school meal programs.

9 (b) The agency may contract with a public or private entity
10 for that entity to conduct all or part of the analysis required by
11 Subsection (a).

12 (c) Not later than September 1 of each year, the agency shall
13 report the findings of the analysis under this section of the
14 results obtained during the preceding school year to the School
15 Health Advisory Committee established under Section 1001.0711,
16 Health and Safety Code, for use by the committee in:

17 (1) assessing the effectiveness of coordinated health
18 programs provided by school districts in accordance with Section
19 38.014; and

20 (2) developing recommendations for modifications to
21 coordinated health program requirements or related curriculum.

22 Sec. 38.105. DONATIONS. The agency and each school district
23 may accept donations made to facilitate implementation of this
24 subchapter.

25 Sec. 38.106. RULES. The commissioner shall adopt rules

1 necessary to implement this subchapter.

2 SECTION 4. Not later than September 1, 2008, the Texas
3 Education Agency, in consultation with the School Health Advisory
4 Committee established under Section 1001.0711, Health and Safety
5 Code, shall provide a report to the legislature that details
6 options and recommendations for providing moderate or vigorous
7 daily physical activity for students for at least 30 minutes
8 outside the seven-hour instructional day. The options and
9 recommendations must be developed with consideration for the needs
10 of students who are enrolled in multiple enrichment curriculum
11 courses.

12 SECTION 5. The commissioner of education shall adopt the
13 physical fitness assessment instrument required under Subchapter C,
14 Chapter 38, Education Code, as added by this Act, and rules
15 necessary to implement that subchapter not later than the date that
16 enables the instrument to be used by school districts during the
17 2007-2008 school year.

18 SECTION 6. Notwithstanding Section 11, Chapter 784, Acts of
19 the 79th Legislature, Regular Session, 2005, Section 38.014,
20 Education Code, as amended by that Act, applies beginning with the
21 2007-2008 school year.

22 SECTION 7. Subsection (1), Section 28.002, Education Code, as
23 amended by this Act, applies to students enrolled in kindergarten
24 or a grade level below grade six beginning with the 2007-2008
25 school year and to students enrolled in grade levels six through

1 eight beginning with the 2008-2009 school year.

2 SECTION 8. Except as otherwise provided by this Act, this Act
3 applies beginning with the 2007-2008 school year. This Act shall
4 apply to junior high or middle schools only upon adoption of a
5 coordinated school health program for these grades by the Texas
6 Education Agency.

7 SECTION 9. This Act takes effect immediately if it receives a
8 vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2007.

Senate Bill 530
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subsections (l) and (l-1), Section 28.002, Education Code, are amended. Among other provisions, Subsection (l) requires a school district, rather than allowing the State Board of Education by rule, to require a student enrolled in kindergarten or a grade level below *grade nine* to participate in moderate or vigorous daily physical activity for at least 30 minutes as part of a school district's physical education curriculum.

SECTION 2. Subsection (k), Section 28.004, Education Code, requiring a school district to publish certain information in the student handbook and post on the district's Internet website, if the district has an Internet website, is amended. Among other provisions, requires a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.

HOUSE VERSION

SECTION 1. Same as Senate version except requires a school district to require a student enrolled in kindergarten or a grade level below *grade six* to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum *or through structured activity during a school campus's daily recess*. Also mandates a school district requirement that students enrolled in grade levels six, seven, and eight participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum.

SECTION 2. Same as Senate version except omits the requirement for publication of the parental notification regarding a parent's entitlement to a child's physical fitness assessment results and adds Subsection (l) to require the local school health advisory council to consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students; to consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations; and to ensure that local community values are reflected in any policy recommendation it makes to the district.

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. Same as Senate version except retains the House requirements in Subsection (l) for the local school health advisory council.

Senate Bill 530
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

No equivalent provision.

SECTION 3. Chapter 38, Education Code, is amended by adding Subchapter C, PHYSICAL FITNESS ASSESSMENT, as follows:

Sec. 38.101. ASSESSMENT REQUIRED. Requires a school district annually to assess the physical fitness of

HOUSE VERSION

SECTION __. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.021, PARENTAL NOTIFICATION CONCERNING SCHOOL NURSES, as follows:

(a) To promote the health and physical fitness of public school students by providing relevant information to parents, requires a public school that does not have a full-time school nurse assigned to the campus for more than 30 consecutive instructional days during the same school year to provide written notice of the fact to the parent of or person standing in parental relation to each student at the school.

(b) Requires the school's principal to provide the notice not later than the 30th instructional day after the first day the school does not have a full-time school nurse assigned to the campus.

(c) Requires the school to make a good faith effort to ensure that the notice is provided in a bilingual form to any parent or other person standing in parental relation whose primary language is not English and to retain a copy of any notice provided.

SECTION 3. Same as Senate version except as follows:

Sec. 38.101. Same as Senate version except requires assessment of students enrolled in *grades three through*

CONFERENCE

Same as Senate version.

SECTION 3. Same as Senate version except as follows:

Sec. 38.101. Same as House version except retains the reference to Section 38.102.

Senate Bill 530
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Section-by-Section Analysis

SENATE VERSION

students enrolled *in kindergarten through grade 12*, with the exception of any student for whom, as a result of disability or other identified condition, the assessment instrument adopted under *Section 38.102* is inappropriate.

No equivalent provision.

Secs. 38.102 - 38.106.

No equivalent provision.

SECTIONS 4-5.

HOUSE VERSION

12 and references the assessment instrument adopted under *Section 38.103*.

Sec. 38.102. PARENTAL NOTIFICATION. Requires a school district to provide the results of a student's physical fitness assessment to the student's parent or guardian, accompanied by an explanation of the results.

Secs. 38.103 - 38.107. Same as Senate version.

SECTION 4. Requires the Texas Education Agency, not later than September 1, 2008, in consultation with the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, to provide a report to the legislature detailing options and recommendations for providing moderate or vigorous daily physical activity for students for at least 30 minutes outside the seven-hour instructional day, which must be developed with consideration for the needs of students enrolled in multiple enrichment curriculum courses.

SECTIONS 5-6. Same as Senate version.

CONFERENCE

Same as Senate version.

Secs. 38.102 - 38.106. Same as Senate version.

SECTION 4. Same as House version.

SECTIONS 5-6. Same as Senate version.

Senate Bill 530
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 6. Provides that Subsection (l), Section 28.002, Education Code, as amended by this Act, applies to students enrolled in kindergarten or a grade level below grade six beginning with the 2007-2008 school year and to students enrolled in grade levels six through eight beginning with the 2008-2009 school year.

SECTION 7. Provides that, except as otherwise provided, this Act applies beginning with the 2007-2008 school year and shall apply to junior high or middle schools only upon adoption of a coordinated school health program for these grades by the TEA.

SECTION 8. Effective date.

HOUSE VERSION

SECTION 7. Substantially the same as Senate version.

SECTION 8. Same as Senate version.

SECTION 9. Same as Senate version.

CONFERENCE

SECTION 7. Same as Senate version.

SECTION 8. Same as Senate version.

SECTION 9. Same as Senate version.